IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Writ Petition No.4293 of l996

Eagle Karmachari Swayamvikas Sanghatana Pune.....Petitioner
vs
The State of Mah and ors...Respondents

Mrs Meena H Doshi for petitioner
Mr.C.R.Sonawane AGP for respondents

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 25.ll.2004

P.C:

l. Heard advocates.

2. The petitioner is a trade union registered under the Trade Unions Act, l926. The respondent no.l is the State of Maharashtra. The respondent no. 2 is the Additional Registrar of Trade Unions appointed under section 3 of the Trade Unions Act, l926. The order of the respondent no. 2 dated 26.7.l996 directing cancellation of registration of the petitioner union is impugned in this petition under Arts 226 and 227 of the Constitution. It appears that somewhere in the month of November l990 the employees working in the Eagle Flask Industries Ltd Talegaon and allied industries formed the petitioner trade union as the previous

union operating in the establishment had lost registration for failing to submit annual returns within the prescribed time. The petitioner union has forwarded its application for registration in l990 itself and the respondent no.2 who made scrutiny of the proposal for registration directed the petitioner union to incorporate certain changes in the registration proposal. Accordingly the petitioner union effected necessary changes in the proposal. It appears that the petitioner has submitted a copy of the constitution alongwith the proposal and those changes were also effected in the constitution. It is the case of the petitioner that it was the only union functioning in the establishment of Eagle Flask Industries and its allied establishments and that it represented about l600 workmen employed in the undertakings and has entered into several settlements with the employer regarding improvement of wages, service conditions, bonus etc.

3. It is further case of the petitioner that in l995 another union under the name and style of Bharatiya Kamgar Sena attempted to enter into the establishment of the Eagle Flask Industries and allied establishments. The petitioner has alleged

that Bharatiya Kamgar Sena is a wing of Shiv Sena Party and with its political clout started to influence the officers of the government and especially the office of respondent no.2. At the relevant time Shiv Sena was in power and its Minister for Labour and Trade influenced the officers of the government to initiate proceedings for cancellation of the registration of the petitioner union. It is alleged by the petitioner that this new union was attempting to get registration of the petitioner cancelled under one pretext or the other. The petitioner has referred to a letter of the Minister of Labour and Trade dated l8.3.l996 wherein he has instructed the respondent no. 2 to take action for cancellation of the registration of the petitioner. In any event the petitioner submits that the socalled grounds for cancellation of the registration were totally sham and non-existant.

4. The petitioner has alleged that at the behest of the Labour and Trade Minister show cause notices were issued to the petitioner. The petitioner appeared in the proceedings and filed its reply denying all the grounds stated in the show cause notice. The show cause notice mentioned following

grounds for cancellation of the registration of the petitioner union:

> "l) In the constitution furnished by the union the provision for ordinary member and his entrance fee was not made. The above provision is not only essential in the constitution but is also mandatory in terms of section 6(e) of the Trade Unions Act, l926
>
> 2) The constitution does not make provision for the union subscription in respect of the ordinary member. Above provision is mandatory as per clause 6(ee) of Trade Unions Act, l926
>
> 3) In the application for registration of the union and enclosed documents at some places there is discrepancy in the name., At one place, in the application the union has been referred to as Eagle Karmachari Swyam Vikas Sanghatana

> and in the title of the constitution it has been referred to as Eagle Karmachari Swyam Vikas Sangh.
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> 4) The application for registration showed the membership as l60 members but the registration fees that were paid were Rs.2 instead of Rs.5.
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> 5) When similar union by similar name namely, Eagle Karmachari Swayam Vikas Sangh Registration no.l983 was in existence on the same address and on the same address the Eagle Karmcahari Swyam Vikas Sanghatana was sought to be registered".

Ultimately by the impugned order dated 26.7.l996 the 2nd respondent cancelled the registration of the petitioner.

5. Ms Doshi, learned counsel appearing for the petitioner submitted that none of the grounds referred to by the 2nd respondent for cancellation of the registration are relevant and germane to the

issue of registration. She submitted that at the time of registration of the petitioner union a detailed scrutiny of the records was made and the 2nd respondent was fully satisfied that all the compliances have been made. She submitted that one of the resolutions that was passed was in respect of the employees to become ordinary members and as to what would be the union subscription inclusive of entrance fees. All that is necessary is to get the Constitution corrected in terms of the resolution wherein the office bearers were specifically empowered by the resolution to correct any mistake in the proposal for registration. As regards the short payment of registration fees, she submitted that the registration fees were deposited by the union as per the directions of the officials of the respondent no.2. The registration proposal had clearly mentioned that the membership was l600 and it was duty of office of the respondent no. 2 to direct the union to deposit Rs 5/- as registration fees and in case there is short fall in payment of the fees for the purpose of registration, union is willing to deposit the difference of fees. As far as the other grounds are concerned Ms Joshi submitted that in the application for registration through inadvertance

the union has been referred to as "Eagle Karmachari Swayam Vikas Sanghatana and in the title of the constitution it has been referred as "Eagle Karmachari Swayam Vikas Sangh". This was only a typographical mistake and cannot be a ground for cancellation of the registration. It is also pointed out by her that another union by same name being Eagle Karmachari Swayam Vikas Sangh had become defunct long prior to the registration of the petitioner and therefore allegation that the petitioner suppressed the fact that another union was registered by similar name and the objection to the socalled discrepancy in the name of union is totally untenable. In our opinion the registration was granted to the petitioner union after proper scrutiny was made and the respondent no. 2 ought to have been slow in cancellation of the registration certificate especially when the petitioner union was registered almost 5 years ago, after due compliance was made by the petitioner union and which was accepted by the office of the respondent no. 2. We are also of the view that the order of registration cannot be set aside on such flimsy grounds. The respondents have not cared to file reply to the petition and hence the averments made in the petition have gone

unchallenged and uncontroverted. In the circumstances the impugned order cannot be sustained and is hereby accordingly set aside. The registration of the petitioner union is restored. Rule is made absolute accordingly.